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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,391	12/21/2000	Masaharu Ono	P/2007-74	9241

7590 02/25/2004

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EXAMINER	
WARREN, DAVID S	

ART UNIT	PAPER NUMBER
2837	

DATE MAILED: 02/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/746,391	ONO ET AL.	
	Examiner	Art Unit	
	David S. Warren	2837	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 October 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *5-13* is/are allowed.

6)☒ Claim(s) *1-4,14-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4 and 14 – 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Usa ('584) in view of Suzuki (5177311). Regarding claims 1 and 2, Usa teaches the use of a pressure sensor (2x, 2y) mounted on a base (col. 4, line 51) encapsulated in a hold member (1) for gripping by the user. The pressure sensors are "encapsulated" by elastic material (col. 4, lines 15 – 17; also col. 4, paragraph 5). Regarding claims 3 and 14, Usa discloses a speaker (SS, fig. 2) to produce (i.e., "inform the user") electronic music instrument sounds (see fig. 2). Regarding claims 4 and 15 – 17, the device of Usa stores control data and auto-performance data (11, 12, fig. 2). Furthermore, Usa discloses the use of MIDI protocol, that is, as is well known, designed to store control data and auto-performance data (see col. 5, line 39). Usa does not disclose the use of a round operator for gripping. Suzuki discloses a round operator (fig. 41) for controlling a musical tone generator. It would have been obvious to one of ordinary skill in the art to combine the teachings of Usa with those of Suzuki to obtain a round operator for controlling a tone generating apparatus. The motivation for making this combination is found in Suzuki who states that the round handle allows "even a child can notice the method how to hold

the stick 901 with ease." In other words, one of ordinary skill would combine the references to provide both easy use and comfort.

Response to Arguments

Applicant's arguments, filed October 6, 2003, with respect to the rejections of claims 1 – 4 and 14 - 17 under §102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground of rejection is made in view of the additional reference to Suzuki (5,177,311).

The applicant states that Usa discloses a "performance control apparatus." The examiner considers this synonymous to a "performance operator." The applicant states that "[t]he examiner apparently equates these gyroscope sensors with Applicants' pressure sensors...[t]his is incorrect as Usa's control apparatus does not detect pressure applied to a pressure sensor but merely senses motion..." The examiner does not concur. The sensors (2x, 2y) of Usa are piezoelectric sensors (col. 5, lines 15 – 18). The examiner maintains that piezoelectric sensors are pressure sensors ("*piezo-*" is a Greek derivative meaning "pressure" – American Heritage Dictionary, 2nd edition, 1982). To corroborate the Examiner's assertion that "MIDI protocol ... is designed to store control data and auto-performance data," the Applicant is referred to www.midi.org for a complete description of MIDI protocol. Finally, controlling tempo is "controlling the tone generator in response" to the

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David S. Warren whose telephone number is 571-272-2076. The examiner can normally be reached on M-F, 9:30 A.M. to 6:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Nappi can be reached on 571-272-2800 ext 37. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

dsw

KIMBERLY LOCKETT
PRIMARY EXAMINER